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R. Justin Price

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EXAMINER

YIP, WINNIE S

ART UNIT

PAPER NUMBER

3636

NOTIFICATION DATE

DELIVERY MODE

11/17/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@vclmlaw.com

Office Action Summary	Application No. 10/596,865	Applicant(s) PRICE ET AL.	
	Examiner WINNIE YIP	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 and 25 is/are allowed.
- 6) ☒ Claim(s) 1-19, 21-23 and 26-30 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's amendment filed on July 16, 2010.

Claim Rejections - 35 USC § 102

1. Claims 1-16 and 28-30 stand rejected under 35 U.S.C. 102(e) as being anticipated by Holub (US Patent No. 7,025,073).

As claims 1-5: Holub teaches a fast-erecting portable structure (see Fig. 2 as illustrated below) comprising: first and second flexible framing rods (24) each inherently having two ends (24A) and a middle, each of the first and second flexible frame rods (24) formed substantially into an inverted U-shape with an apex, the flexible framing rods each having two ends, each end having an end element (56) including a fixed ring (58) being non-removably connected to an anchoring ring (54) being secured to the ground (see Fig. 2), the first and second flexible framing rods (24) crossing each other near apexes of the inverted U-shapes (see Fig. 2) to form a “dome” style tent (see col. 2, line 60-62); a flexible skin (20) slidably connected to the middles of the flexible framing rods by sleeves (26), the flexible skin having fixed flaps (46) non-removably connected to corners of a base of the portable structure, the fixed flaps being non-removably connected to the anchor rings (54), wherein the flexible skin includes the fixed flaps being non-removably connected to the two ends of the first and second flexible framing rods, and the two ends of the first and second flexible framing rods with the fixed flaps act as the base of the portable structure, and wherein the flexible framing rods spring the portable structure fast-erecting into dome shape.

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In regard to claims 2-5, Holub teaches the first and second flexible framing rods (24) being slidably connected to the flexible skin by sleeves (26), the sleeves (26) are made of substantially the same material as the flexible skin and are sewn to the flexible skin as claimed.

In regards to claim 6, Holub teaches the portable structure further comprising a fly (22) having fly framing rods (24) (see Fig. 1) having ends non-removably connected to the portable structure, so the fly is non-removably connected to two ends of the fly framing rod but removably connected to the flexible skin of the portable structure by hooks (28) (see Fig. 1, col. 1, lines 53-58).

In regard to claims 7-8, 10, and 15-16, see Fig. 2, Holub teach the structure further comprising a third and a fourth flexible framing rods (24 as shown with hooks 28, see Fig. 2) each formed substantially into an inverted u-shape with an apex at a middle of the rod respectively, the third and fourth flexible framing rods crossing the first and second flexible framing rods (24) respectively near from the apex of the inverted u-shape (as claims 7-8), the third and fourth flexible framing rods crossing the first and second flexible framing rods (24) respectively at a location offset from the apexes where the first and second flexible framing rods (24) cross each other (as claims 15-16), and the flexible skin is removably connected to middles of the third and fourth flexible framing rods by framing rod hooks (28) or loops (Velcro) (not shown) (see col. 3, lines 38) which is non-removably connected to the flexible skin, and the flexible skin non-removably connected to two ends of the rods respectively.

In regard to claims 11 Holub teaches the flexible framing rods being generally made of flexible material as claimed.

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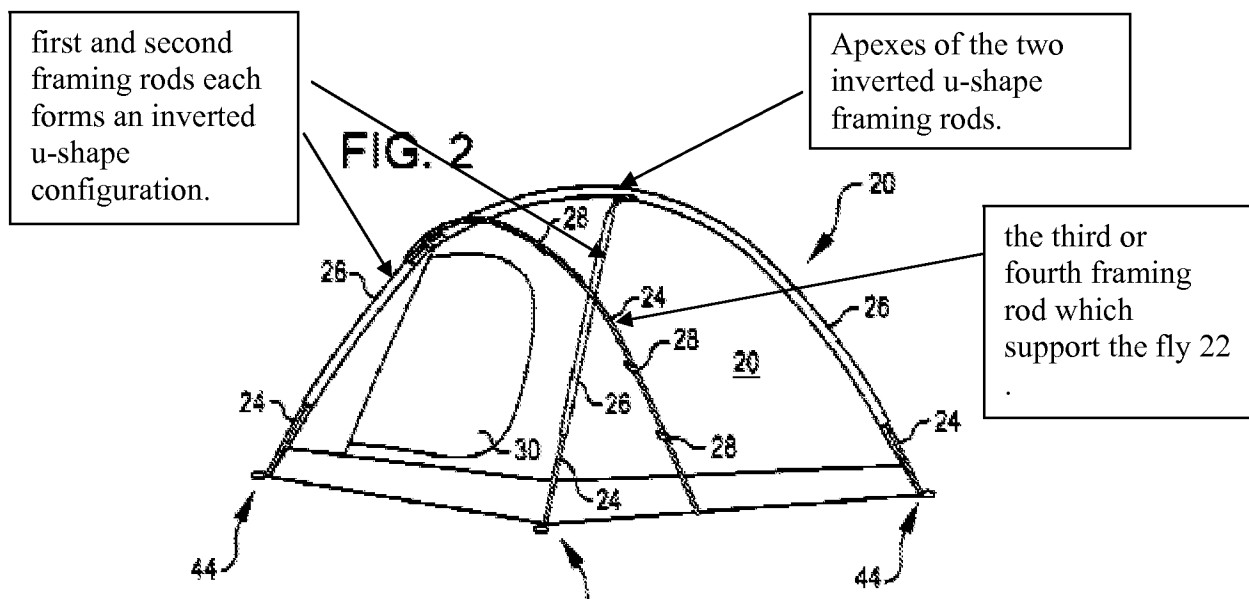
In regard to claim 12, Holub teaches the flexible framing rods (24) being movable independently of each other.

In regard to claim 13, Holub teaches the flexible skin comprising material being canvas or other waterproof, fabric, and stretchable material which is considered to be consisting of nylon and cotton as claimed.

In regard to claim 28, as in combination, Holub teaches a portable structure as discussed above is used for camping outdoor. Therefore, the structure is considered being stored into an any type of storage device when is not used and for transporting to a location.

In regard to claim 29, Holub teaches the flexible skin (20) is capable to be a non-divisible flexible skin.

In regard to claim 30, Holub teaches the first and second flexible framing rods being non-joined to each other and are removable independently of each other.



2. Claims 17 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Lindamood (US Patent No. 6,772,883).

Lindamood teaches a storage bag having a front sheet (50) and a back sheets (56) each having an inside surface and an outside face, and a perimeter being connected together by a spacer (52, 54) therebetween, the front sheet (50) having an opening flap perimeter and an opening flap (40) for opening or closing the opening flap perimeter by zipper fasteners (24) along the perimeters of the flap perimeter, wherein a distance between the opening flap perimeter and the front sheet perimeter is generally at least one inch, at least one pocket (44) with a flexible belt (34) therewith being formed on an inside surface of the back sheet (56) (see Fig. 1; and col. 6, lines 39-47) for storing equipment accessories such as flexible cables, and a pocket (42), whereby the storage bag is able to allow a portable structure having flexible framing rods and a flexible skin being stored inside of storage bag, and the first pocket and the second pocket are capable to be oriented to receive ends of the flexible rods while the flexible framing rods are stored inside of the storage bag.

Claim Rejections - 35 USC § 103

3. Claims 1-5, 7-8, 10-16, and 28-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Howe (US Patent No. 5,197,504) in view of Wu (US Patent No. 3,370,145).

Howe teaches a fast-erecting portable structure (10) comprising: a first flexible framing rods (4C) inherently having two ends (9) and a middle, the first flexible frame rod (4C) having the two ends disposed downward to form substantially into an inverted U-shape with an apex

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(see Fig. 1); a second (4A) (as claim 1) or a third and fourth flexible framing rods (4A, 4B) (as claim 8) each inherently having two ends (9) and a middle (see Fig. 7), each of the second or third and fourth flexible frame rod (4A, 4B) formed substantially into an inverted U-shape with an apex at the middle, the second or the third and fourth flexible framing rods each crosses the first flexible framing rod (4C) at a intersection (12) near the apex of the first flexible framing rod; a flexible skin (2) slidably connected to the middles of the flexible framing rods by sleeves (20) via hooks (6 or 57), the flexible skin having fixed corner flaps (19) attached to corners of the portable structure, the two ends of the flexible framing rods (4C, 4A, 4B) each having a groove (9) and a grommet (16) being non-removably connected to a fixed corner flap (19) of the flexible skin (2) respectively, the two ends of each first, third and fourth flexible framing rods with the fixed flaps act as a base of the portable structure, and wherein the flexible framing rods erecting the portable structure quickly upward into a dome-shape, and the flexible framing rods remaining attached to the flexible skin during disassembly and storage, and the flexible framing rods and the flexible skin are folded and stored in a compact backpack (a storage device/bag as claimed) for storage (see col. 4, lines 54-58; Fig. 2). Although Howe does not explicitly define the portable structure further comprising the second flexible framing rod crossing the first flexible framing rod near the apexes as claimed as claim 1 or a second flexible framing rod between the third and fourth flexible framing rods as claims 1 and 8, Wu teaches a portable structure comprising a first and a second flexible framing rods (30, 31) each having two ends extending downward to form a inverted u-shape with two ends connected to a base of the structure and the rods cross each other near the apexes of the rods for supporting a flexible skin to form a dome shaped structure. It would have been obvious to one ordinary skill in the art at

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the time the invention was made to modify the portable structure of Howe having a second flexible framing rod and the fourth flexible framing rod extending across the first flexible framing rod near the apexes as taught by Wu for providing a stronger support to a flexible skin to a dome shaped configuration, and the adding additional member would provide the result being predictable.

Re claims 2-5, although Howe does not define the flexible framing rods being connected to the flexible skin by sleeves, Howe discloses the skin having sleeves (20) having a hooks or rings (6 or 57) that are slidably connected to the flexible rods. Therefore, Howe is considered to teach the flexible rods being slidably connected to the skin by sleeves via rings or hooks connected therewith as claimed. And, alternatively, Wu further teaches, as old and know in the art, the tent having the flexible rods (30, 31) being slidably connected to the flexible skin by elongated sleeves (24) which are sewn to the skin. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the portable structure of Howe having a plurality of elongated sleeves sewn in the flexible skin instead of smaller sleeves to allow the flexible frame rods slidably connected therethrough as taught by Wu as old and known in the construction art for strongly remaining the flexible framing rods with flexible skin for quickly erecting or compacting the portable structure.

In regard to claim 12, Howe teaches the flexible framing rods (4A, 4B, 4C) being movable independently of each other (see Fig. 2).

In regard to claim 13, Howe teaches the flexible skin made of material being canvas or other waterproof, fabric, and stretchable material which is considered to be consisting of nylon and cotton as claimed.

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In regard to claim 28, Howe teaches the tent can be stored into a storage device, such a compact backpack, in a storage position (see col. 4, lines 50-58), and the rods being made of flexible wire such that the rods will readily return to its position and the tent can spring into shape after released form the device (see col. 5, lines 45-50).

In regard to claim 29, Howe shows the flexible skin (2) is a non-divisible flexible skin.

In regard to claim 30, Howe shows the flexible framing rods each is a single piece and is non-joined to each other.

4. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howe (US Patent No. 5,197,504) in view of Wu (US Patent No. 3,370,145), and further in view of Ransom et al. (US Patent No.7,040,333).

Howe disclose a portable structure as modified by Wu comprising structural limitations as claimed as explained above rejections except Howe does not explicitly defined the framing rods can be coiled and stowed inside of a storage bag for storing the portable structure, and the storage bag having an interior pocket and the flexible framing rods and flexible skin being coiled and stowed inside the storage bag as claimed. But, Howe teaches the poles being “flexible wire” and the tent can be folded and stored into a storage device such as a backpack (see col. 4, lines 54-58). Wu also teaches the rods of the tent can be coiled and placed into a bag. And, Ransom et al. teaches a portable structure comprising plurality of flexible framing rods (12) and a flexible skin (40 or 15) supported by the rods to form a dome shape configuration in an erected position, the flexible framing rods (12a-12d) being able to coiled into small sizes for storing, and a storage bag (60) having a front sheet, a back sheet, and a spacer connected therebetween to

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define an interior pocket between the front and back sheets, and a zipper (64) connected between the front and back sheets for closing and opening the interior pocket, and the folded portable structure being inserted and zippered inside of the storage bag for storing. Therefore, it would have been obvious to one ordinary skill in the art to modify the portable structures of Howe having the flexible framing rods being made of coilable material to be coiled into small sizes as taught by Wu and having a storage bag having an interior pocket, and the tent can be coiled and stowed inside of the storage bag as taught by Ransom et al. for quickly enclosing the portable structure into a compact position to be easily stored and transported.

5. Claims 17-19, and 21-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Camara (US Patent No. 5,937,883) in view of Rosen et al. (US Patent No. 6,382,376).

Camara teaches a storage bag (16) having a front sheet with a front sheet perimeter and a back sheet with a back sheet perimeter, each front and second sheet having an inside surface and an outside face, and the front and back sheet perimeters being connected together by a spacer to define an interior region (22), the front sheet having an opening flap perimeter having a sealing structure such as zipper fasteners (38) for opening and closing the opening flap perimeter, a distance being formed between the opening flap perimeter and the front sheet perimeter generally, at least one pocket (28) being formed on an inside surface of the back sheet and a second pocket (26) being formed on the first front sheet, whereby a portable structure including flexible framing rods (14) and a flexible skin (12) are capably stored inside of storage bag, and the first pocket and second pocket are capable to be oriented to receive ends of the framing rods while the flexible framing rods are stored inside of the storage bag. Although Camara does

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not explicitly define the storage bag having the distance between the opening flap perimeter and the front sheet perimeter being at least one inch, it would have been obvious matter of design choice to modify the storage bag of Camara having the distance between the opening flap perimeter and the front sheet perimeter being at least one inch as claimed since applicant has not disclosed that having the distance being this specific length solves any stated problem or is for any particular purpose and it appears that the storage bag of Camara as combined with Rosen et al. would perform equally well with a such distance formed on the front sheet generally at least one inch as claimed for providing a sufficiently cover to the interior region for retaining a subject element such as a rod placed inside of the interior region of the storage bag as old and known method in the construction art.

Further, although Camara does not explicitly define the storage bag having the sealing structure including an opening flap for opening and closing the opening flap perimeter as claimed, Rosen et al. teach a storage bag (10) having an interior (26) formed by a body including a front sheet having an opening flap perimeter (30), an opening flap (20), and a sealing structure such a zipper (18, 22) attached along the edges of the opening flap perimeter and an edge of the opening flap for opening and closing an interior of the storage bag. It would have been obvious to one ordinary skill in the art to modify the storage bag of Camara having an opening flap attached to a front sheet to provide a seal structure for opening and closing the opening flap perimeter by suitable sealing fasteners such as zipper as taught by Rosen et al. easily and quickly closing and opening an opening flap perimeter formed on the storage bag.

In regard to claims 22-23, although Camara as modified by Rosen et al. does not explicitly define the storage bag having a configuration in a shape of a circular or an elongated

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circular disk, Camara defined shows the storage bag may alternatively have a variety configurations and shapes. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the shape of the configuration of the storage bag as circular disk or elongated circular disk as claimed because to do so would merely involve a matter of obvious design choice to achieve a desirable appearance for a variety of applications.

6. Claims 17-19 and 21-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bell, III (US Patent No. 7,111,714) in view of KJose (US Patent No. 4,182,391).

Bell, III teaches a storage bag having a front sheet (14) and a back sheets (20) each having an inside surface and an outside face, and each having a sheet perimeter being connected together by a spacer (18) therebetween, the front sheet (14) having an opening flap perimeter and an opening flap (22) for opening or closing the opening flap perimeter by zipper fasteners along the opening flap perimeter and the edge of the opening flap, wherein a distance is formed between the opening flap perimeter and the front sheet perimeter, whereby the storage bag is able to allow a portable structure having flexible framing rods and a flexible skin being stored inside of storage bag, and storage bag having a configuration in a shape of an elongated circular disk. Although Bell, III does not explicitly define the distance between the opening flap perimeter and front sheet perimeter is generally at least one inch, Bell, III shows the distance substantially having at least one inch. Since applicant does not indicate, However, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to create optimal dimensions for the distance between the front sheet and the flap to provide sufficiently support to the flap to be easily open and closed, since it has been held that discovering an

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optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617F.2d272,205 USPQ 215(CCPA 1980).

Further, although Bell, III is silent there are pockets formed in the inner surfaces of the front and back sheets respectively. KJose teach a storage bag comprising a front sheet (12) and a back sheet (11), and pockets (i.e., 30, 28, 26) formed on an inner surfaces of the front sheet (12) and the back sheet (11) near the sheet perimeter for holding suitable elements placed inside of the storage bag. It would have been obvious one ordinary skill in the art at the time the invention was made to form the storage bag of Bell, III having a first and second pockets being connected to the front and back sheets near the sheet perimeters respectively as taught by KJose for retaining and holding a stored element inside of the storage as known in the art.

In regard to claim 22, although Bell, III as modified by KJose does not explicitly define the storage bag having a configuration in a shape of a circular disk, Bell, III shows the storage bag having a configuration in a shape of an elongated circular disk. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the shape of the configuration of the storage bag of Bell, III as modified by KJose having a circular disk as claimed because to do so would merely involve a matter of obvious design choice to achieve a desirable appearance for a variety of applications.

Allowable Subject Matter

7. Claims 24-25 are allowed.

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8. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed on July 16, 2010 have been fully considered. The following is examiner's response.

A. Applicant's arguments with respect to the claim objections have been fully considered and are persuasive. The objection of claims has been withdrawn.

B. In regard to applicant's argument that the claimed invention does not anticipated by Holub '073 as rejected under 35 USC 102(e) because of that Holub '073 does not teach the tent being "non-removably connected to the poles as claimed invention, it is not deemed persuasive. Reading a claim in light of the specification to their interpret limitations explicitly recited in the claim, is a quite different thing from reading limitations of the specification into a claim to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim. *In re Prater*, 415 F2d 1393, 162 USPQ 541 (CCPA 1969).

Applicant cannot rely on the specification to impart to the claims limitations not recited therein.

Such reliance is ineffective to define over the prior art. *In re Lundberg*, 244 F2d 543, 113

USPQ 530 (CCPA 1957); *In re Winkhans*, 188 USPQ 129 (CCPA 1975). In this case,

Applicant claims the tent **comprising** a flexible skin being "**non-removably** connected to the **two ends** of the flexible framing poles". As discussion above rejections, Holub teaches the tent

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comprising flexible framing rods (24) each having two ends (24A as same the prior art figure) having an end element/ attachment (58) being fixed to a ring (54), a flexible skin (20) having a fixed flaps (or call webbing loop (46) being "non-removably connected" to the ring (54).

Therefore, the skin of Holub's tent is considered to be "non-removably" connected to **the end of the rod** as claimed. On the other word, the rods of Holub's tent are not necessary removably disconnected form the skin when it is in a stored position. Notice, applicant does not claim the flexible framing rod being unitary or a single piece of rod. So, the rod may include serval pieces including the end element. Therefore, Holub teaches a portable structure broadly read on the claimed invention.

C. In response to applicant's argument that claims 17 and 21 are not anticipated by Lindamood because Lindamood does not have a pocket that can be "oriented to receive ends of the flexible rods" as the application, it is not persuasive. First, as discussed above rejection, it is examiner is kingly point out the Lindamood shows a storage bag for storing a portable structure that is capable for a portable tent, the storage bag comprising a space to be able to store a portable structure (a computer or a portable tent), at least pockets (44) on back side (56) having flexible belt (34) thereon for storing equipments accessories such as flexible electrical cables or wires (see Fig. 1; and col. 6, lines 39-47), and a pocket (42) on the flap (40), So the storage bag of Lindamood is broadly read on the claimed invention. Secondly, the recitations of "a fast-erecting portable structure having flexible rods" is a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure

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is capable of performing the intended use, then it meets the claim. In this case, the storage bag of Lindamood having an interior space and pocket with an open top as claimed invention. So, the storage bag of Lindamood is capable used for receiving and storing a portable structure, and ends of the flexible rods can be received from the open end of the pocket as claimed. Therefore, the bag of Lindamood is broadly read on and is anticipated the claimed invention.

D. In response to applicant's argument to the rejections under 35 USC 103 (a) that both references to either Howe nor Wu teach or suggest all of the limitations such as "a flexible skin being non-removably connected to each end of a flexible framing rod" as suggested by the applicant's invention, it is not persuasive. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.1986). In this case, first, as discloses above rejection, Howe is considered to teach a tent (10) comprising a flexible skin (2) being non-removably connected to a flexible framing rod (46A , 46B, 46C) each having two ends each having a tip 9 and a strap 19 being non-removably connected therein (see Fig. 5), Therefore, "the attachment of membrane 2 (a flexible skin as claimed) to poles 4a, b, c preferably remains intact at one end of each poles even during disassembly and storage of the tent" (see col. 3, lines 45-49; Fig. 2). And, therefore, the flexible skin 2 of Howe's tent is considered to be "non-removably connected" to the flexible framing rod" as claimed invention. Second, our rejection is base upon combined of references Howe and Wu, not just on Howe's reference, otherwise, it would have been entered under

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section U.S.C. 102 of the statute. Wu is used as a reference to teach a portable structure comprising two or more flexible framing rods (30, 31) cross each other near their apexes to support a flexible skin to form a dome shaped structure as claimed. Therefore, one of ordinary skill in the art, would have modified the positions of the flexible framing rods of Howe to near their apexes to form a dome shaded tent as taught by Wu as an obvious matter of reposition design choice to obtain an obvious support for a domes shaded tent as various applications and the result is reasonably predictable since both references are in a same field of endeavor. Accordingly, a prima facie case of obviousness has been established.

E. In regard to applicant's argument that the references Howe and Wu do not teach the features of "when the fasten-erecting tent is released form a storage device, the fast-erecting tent springs into shape" as claim 28. It is not persuasive. First, the limitation "when the.... Springs into shape" merely recites a method step of using, so it is given a very little patentability weight for an apparatus claim. In fact, Howe discloses the tent including a plurality of flexible poles made of flexible wire which can be folded during storage, together with membrane 2, to allow for a compact backpack as a storage device as claimed (see col. 4, lines 55-58), and the rods and the skin of the tent will readily return to its position so the tent can spring into shape after released form the device (see col. 5, lines 45-50). Therefore, the tent of Howe can be "fast" erected when it is release while the poles are able to spring into shape due to the flexibility of the poles. Therefore, the tent of Howe as modified Wu would be obviousness as claimed invention.

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F. In response to applicant's argument to the rejections under 35 USC 103 (a) to claims 26-27 that there is no teaching, suggestion, or motivation to combine the references of Howe in view of Wu and Ransom et al, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, applicant's argues that the references to Howe and Wu and Ransom et al. fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the purpose of "a first pocket is to receive one end of the framing rod" are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). First, as discussed above rejection, Howe teaches the tent including a plurality of flexible poles which can be folded during storage together with membrane 2 to allow for a compact backpack as a storage device as claimed (see col. 4, lines 54-58). Therefore, the poles of the tent of Howe including ends of the poles are considered to be folded and placed into a storage bag such as a backpack. Second, applicant only claims "a storage bag having an interior pocket" without details of the pocket and a purpose of the pocket is used. Therefore, whether or not the ends of the rods being held by the pocket (as applicant argued) is not claimed in the rejected claims. Ransom et al. is used to teach a bag having two sheets (60) to define an interior pocket (space) there between the sheets for storing a

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tent therein as claimed invention. And, Wu is used to teach the poles can be coiled into a ring to be placed into a bag as the claimed invention. Therefore, it would have been obvious to one ordinary skill in the art to modify the tent of Howe having poles that can be coiled as taught by Wu for easily and quickly folding the tent into a storage bag for transporting and having a pocket as taught by Ransom et al. for holding any accessories while transporting and the result is reasonably predictable since references are in a same field of endeavor. Accordingly, a prima facie case of obviousness has been established.

G. In response to applicant's argument to the rejections under 35 U.S.C. 103 that are not obvious over the references to Camara '883 in view of Rosent et al. because the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., not for storing flexible framing rods) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In response to applicant's arguments, the recitation "flexible framing rods" has not been given patentable weight because the recitation occurs in the preamble by a statement of "for ..." . A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). In claims 17-19 and 21-23, the recitation "flexible framing rods" only occurs in the preamble for intended use only. Therefore, a tent

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including flexible framing rods and a flexible skin is not part of claimed invention and is considered for intended use only. Camara is considered to define a storage bag (16) for storing a portable device comprising a plurality of poles (47) and a flexible skin (12), and the bag including pockets for holding accessories. So, Camara as modified by Rosen et al. is considered to teach a storage bag is capably used for storing a tent which also includes portable poles and a flexible skin. However, how to store and hold the flexible framing rods inside of the pockets of the storage bag is not part of the claimed invention. Therefore, Camara as modified by Rosen et al. would be obvious to be used for storing a tent as the claimed invention.

H. In response to applicant's argument to the rejections under 35 U.S.C. 103 that are not obvious over the references to Bell, III in view of KJose because the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., not for storing a fast-erecting portable structure having flexible framing rods) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In response to applicant's arguments, the recitation "flexible framing rods" has not been given patentable weight because the recitation occurs in the preamble by a statement of "for ...". A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478,

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481 (CCPA 1951). In claims 17-19 and 21-23, the recitation “flexible framing rods” only occurs in the preamble for intended use only. Therefore, a tent including flexible framing rods and a flexible skin is not part of claimed invention and is considered for intended use only. Bell, III as modified by Kjose are considered to define a storage bag (16) including structural limitations such as interior pockets as the claimed invention and having space for storing suitable articles as the claimed invention except do not directly define the article is a tent including flexible framing poles as applicants invention. Since the tent is not part of the claimed invention, and the storage bag of Bell, III as modified by Kjose having structural limitation as claimed invention, the storage bag of Bell, III as modified by Kjose would have been obvious to be used for storing a tent which also includes portable poles and a flexible skin therein for storing and transporting.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WINNIE YIP whose telephone number is (571)272-6870. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Winnie Yip/
Primary Examiner,
Art Unit 3636

wy
October 4, 2010